

PT 97-58
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

MASTER LIFE)	
MISSION,)	Docket No: 93-16-1288
APPLICANT)	
)	
v.)	Real Estate Exemption
)	for Part of 1993 Tax Year
)	
DEPARTMENT OF REVENUE)	P.I.N: 02-15-101-008
STATE OF ILLINOIS)	
)	
)	
)	Alan I. Marcus,
)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Messrs. Mark Liepold and Theodore Swain of Gould & Ratner appeared on behalf of Master Life Mission,

SYNOPSIS: This proceeding raises the following issues: first, whether applicant owned real estate identified by Cook County Parcel Index Number 02-15-101-008 (hereinafter the "subject parcel" or the "subject property") during any portion of the 1993 assessment year; second, whether any portion the subject parcel qualifies for exemption from 1993 real estate taxes as "property used exclusively for religious purposes" within the meaning of 35 ILCS 205/19.2;¹ third,

1. In People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption will depend on the statutory provisions in force at the time

whether any portion of said parcel qualifies for exemption from such taxes as a "parsonage" within the meaning of Section 19.2; fourth, whether Master Life Mission (hereinafter "MLM" or the "applicant") qualifies as an "institution of public charity" within the meaning of 35 ILCS 205/19.7; and fifth, whether the subject parcel satisfies the ownership and use requirements set forth in Section 205/19.7.

Section 19.2 exempts the following from real estate taxes and states as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, including all such property owned by churches and religious institutions or denominations and used in conjunction therewith as parsonages or other housing facilities provided for ministers (including bishops, district superintendents and similiar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery shall be considered for purposes of this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform related religious activities shall, as a condition of their employment or association, reside in such parsonage, convent or monastery.

Section 19.7 provides, in relevant part, as follows:

for which the exemption is claimed. This applicant seeks exemption from 1993 real estate taxes. Therefore, the applicable statutory provisions are those contained in the Revenue Act of 1939 (35 ILCS 205/1 et seq).

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States ... [is exempt from real estate taxation] ... when such property is actually and exclusively used for such charitable or beneficent purposes and not leased or otherwise used with a view to profit ...[.]

The controversy arises as follows:

On March 3, 1994, applicant filed a Real Estate Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the "Board"). Said complaint alleged that the subject property was exempt from real estate taxation under the then-existing versions of Sections 205/19.2 and 205/19.7. (Applicant Group Ex. No. 1, Document B).²

². Applicant Group Ex. No. 1 consists of the following documents: An Application for Property Tax Exemption received by the Illinois Department of Revenue on June 2, 1994; the Real Estate Exemption Complaint filed with the Cook County Board of (Tax) Appeals on March 3, 1994; an Affidavit of Use dated March 2, 1994; a parsonage questionnaire; a letter from the Rev. Joseph Joo Jung Ahnne, dated "Christmas 1993[;]" a warrantee deed dated July 20, 1993; applicant's Articles of Incorporation; applicant's by-laws; a real estate tax bill; photographs of the subject property; a letter, dated March 31, 1993, under the signature of Marilyn W. Day, District Director of the Internal Revenue Service; a certificate, issued by the Illinois Department of Revenue on March 11, 1994, finding the applicant to be exempt from Use and related sales taxes in the State of Illinois; applicant's financial statement for the year ending December 31, 1993; a map of the subject premises; a newspaper article dated August 10, 1993 and a program from the "Joy of Christmas[.]"

All of the aforementioned exhibits have been included in the group exhibit. However, each individual document was not separately marked as a component part of same. Thus, in order to clarify any confusion that may result from referring to the group exhibit as an indivisible whole, its documents are hereby renamed as follows: Applicant Group Ex. No.1, Document (hereinafter "Doc.") A is the Application for Property Tax Exemption; Applicant Group Ex. No. 1, Doc. B is the Exemption Complaint; Applicant Group Ex. No. 1, Doc. C is the Affidavit of Use; Applicant Group Ex. No. 1, Doc. D is the parsonage questionnaire; Applicant Group Ex. No. 1, Doc. E is the

The Board reviewed applicant's complaint and recommended to the Illinois Department of Revenue (hereinafter the "Department") that the requested exemption be denied because the "minister who resides at premises is pastor at [a] church unrelated to Master Life Mission[.]" (Applicant Group Ex. No. 1, Doc. A). On October 27, 1995, the Department accepted this recommendation by issuing a certificate finding that the subject parcel was not in exempt use. (Dept. Ex. No. 1).

Applicant filed a timely appeal to the Department's denial and thereafter presented evidence at a formal administrative hearing that took place on July 30, 1996. Following submission of all evidence and a careful review of the record, it is recommended that the subject parcel not be exempt from 1993 real estate taxes.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein, namely that the subject parcel was not in exempt use during 1993, are established by the admission into evidence of Dept. Ex. No. 1.

2. The subject parcel, which applicant acquired ownership of via a warrantee deed dated July 20, 1993, is located at 500 W.

letter dated "Christmas, 1993[;]" Applicant Group Ex. No. 1, Doc. F is the deed; Applicant Group Ex. No. 1, Doc. G is applicant's Articles of Incorporation; Applicant Group Ex. No. 1, Doc. H is applicant's by-laws; Applicant Group Ex. No. 1, Doc. I is the tax bill; Applicant Group Ex. No. 1, Doc. J are the photographs; Applicant Group Ex. No. 1, Doc. K is the letter from the Internal Revenue Service dated March 31, 1993; Applicant Group Ex. No. 1, Doc. L is the certificate exempting applicant from Use and related sales taxes in the State of Illinois; Applicant Group Ex. No. 1, Doc. M is the financial statement; Applicant Group Ex. No. 1, Doc. N is the map; Applicant Group Ex. No. 1, Doc. O is the newspaper article; Applicant Group Ex. No. 1, Doc. P is the program from the "Joy of Christmas[.]"

Northwest Highway, Palatine, IL 60067. It consists of a lot measuring 2.8549 acres. Applicant Group Ex. No. 1, Docs. A & F.

3. The lot is improved with a one-story building that occupies 3,500 square feet. The building was originally built as a private residence. It contains no basement but features a dining room, a living room, a family room and four bedrooms. *Id*; Tr. pp. 14, 32 - 33.

4. Applicant's founder, the Rev. Joseph Joo-Young Ahnne (hereinafter "Rev. Ahnne"), is an ordained minister of the United Methodist Church. He served as pastor of Faith United Methodist Church in Elmhurst during 1993. Applicant Ex. No. 1, Doc. O; Tr. p. 8.

5. Rev. Ahnne founded MLM in 1992 in hopes of providing a Christian mission and related services to Korean-born children adopted by American families. Most of these children are between the ages of 13 and 18 or 19. They often experience estrangement from their families, cultural conflicts and other difficulties in adapting to their new environment. Tr. p. 9 - 11.

6. Rev. Ahnne describes MLM as a "mission organization" and not a church. Tr. pp. 10, 21.

7. A brochure entitled "Master of Life Mission" indicates that it offers the following services: hospitality for personal reflections, prayer and fellowship with G-D; spiritual training for life application; pastoral care for individuals and families; publication of a newsletter for American adoptive families which strives to provide American adoptive families with information about the Korean community and other resources that may be needed to raise

adopted Korean children; referral services for resources of Korean language, customs, tradition, foods and other cultural information; technical assistance in developing and promoting Korean cultural events such as a camp and a workshop; a library loan system of which makes authentic Korean costumes available to adoptive families. Applicant Ex. No. 4.

8. The brochure further indicates that applicant intends to expand its resource materials, including its collection of Korean dresses, in the future. It does not, however, indicate how many people availed themselves of same or used the mission for other purposes during 1993. *Id.*

9. MLM also offers counseling to the above-described children and sponsors, makes available, participates in or supplies resources for the following activities and programs: pre-marital counseling sessions; a summer camp; an annual musical celebration called the "Joy of Christmas" and technical assistance training programs for ministers. Tr. pp. 10-14, 21; Applicant Ex. Nos. 2, 3 & 4.

10. The "Joy of Christmas" show for the assessment year in question was held on December 4, 1993. It took place at 605 W. Golf Road, Mount Prospect, Illinois. Applicant Group Ex. No. 1, Doc. P.

11. The program from the "Joy of Christmas" indicates that Rev. Ahnne "initiated" the celebration and delivered a benediction. It does not, however, mention applicant as a sponsor of the event. Nor does it list MLM by name or otherwise indicate that applicant had any other affiliation (donor, participant, etc.) with the celebration. *Id.*

12. The camp, which was called "Camp Pride Korea[,]" was held at the Hanmee Presbyterian Church in Itasca, Illinois during 1993. It was "totally executed by American Parents of Korean children" and featured programs which taught the children about their heritage. Applicant Group Ex. No. 1, Doc. O.

13. A brochure for the technical assistance training program recites Rev. Ahnne's qualifications, which include an M. A. in Urban Studies, an M. Div, a D. Min. and training at James Kennedy's Evangelism Explosion and various other seminars or workshops. It does not, however, indicate what specific resources were available at the subject property or otherwise show how many ministers availed themselves of same during 1993. Applicant Ex. No. 3.

14. Although it "reaches out" to approximately 200 families per year, MLM does not conduct regular worship services at the subject property. It does however occasionally use same to conduct prayer meetings and offer shelter and lodgings to other ministers and runaway or disturbed children. It also provides the aforementioned counseling services and technical assistance at the building on an as-needed basis. Tr. pp. 10, 23 - 24.

15. Rev. Ahnne also resides in the building with his wife (who maintains secular employment but assists in his ministry) and son. He uses the dining room for office administration. He also maintains one of the bedrooms in authentic Korean decor so that visitors can experience some of that culture. Tr. pp. 14 - 16, 21, 24, 31.

16. Rev. Ahnne considers the family room a "sanctuary" which, depending on group size, he uses to conduct small group sessions. Tr. pp. 23.

17. These sessions teach children about Korean culture, the Bible, the love of G-D and other related topics. Rev. Ahnne offers these sessions at the subject property approximately once per month. He also conducts them "outside the mission" if the size of the group so warrants. Tr. pp. 27-28.

18. MLM was incorporated under the General Not-For-Profit Corporation Act of Illinois on March 31, 1992. Applicant's Articles of Incorporation and by-laws indicate, *inter alia*, that its organizational purpose is that of an "[i]nter-denominational Christian ministry to develop and administer religious mission programs and activities." Applicant Group Ex. No. 1, Docs. G and H.

19. According to its Articles of Incorporation and by-laws, applicant's specific purposes are to effectuate the following:

A. Discipleship, or the training of Christian leaders in spiritual life and Biblical truth;

B. Evangelism, or reaching out the unchurched [sic] people to help them find a new life in Jesus Christ;

C. Mission, or encouraging people to serve like the Way of the Master [sic] in the community and in the world;

D. Fellowship, or developing a G-D centered community of believers in the Master.

Id.

20. Applicant's by-laws also contain the following Statement of Faith:

A. We believe in the one G-D, who is Creator and Preserver of all things, externally existing in

three persons, Father, Son and Holy Spirit, but one in essence;

B. We believe in Jesus Christ, begotten by the Holy Spirit, born of the Virgin Mary, and is truly G-D and truly man inseparably united;

C. We believe in the Holy Spirit who proceeds from and is one in being with the Father and with the Son. He comforts, sustains and empowers the faithful and guides them into all truth to live like the Master and bear fruits to the glory of the Father;

D. We believe in the Holy Bible, Old and New Testaments, inspired by G-D, infallible and inerrant divine authority for all Christian faith and life;

E. We believe the Christian Church is the community of all true believers who are born again in the Holy Spirit and the Word of G-D. We believe it is the redemptive fellowship in which the Word of G-D is preached and the sacraments are duly administered. Under the guidance of the Holy Spirit the Church exists for the worship, prayer, teaching of the Word, service to the Body and mission to the world;

F. We believe the sacraments, Baptism and the Lord's Supper, ordained by Christ, are symbols and pledges of the Christian's profession of G-D's love toward us. They are means of grace by which G-D works invisibly in us, quickening, strengthening and confirming our faith in Him;

G. We believe we are created in the image of G-D; and sinned, thereby separating from G-D. But sinners are justified [sic] only by faith in our Lord Jesus Christ. We believe regeneration is the renewal of [the] human being in righteousness through Jesus Christ, by the power of the Holy Spirit. We believe good works are the necessary fruits of faith but not for salvation;

H. We believe sanctification is the work of G-D's grace through the Word and the Spirit, by which those who have been born again are cleansed from sin in their thoughts, words and acts, and are enable[d] to live according to G-D's will,

and to strive for holiness without which no one will see the Lord;

I. We believe all human beings stand under the righteous judgment of Jesus Christ, both now and in [sic] the last day. We believe in the resurrection of the dead; the righteous to life eternal and the wicked to endless condemnation;

J. We believe the Lord's Day is divinely ordained for private and public worship, and should be devoted to spiritual growth, Christian fellowship and service. It is commemorative of our Lord's resurrection and is essential to the life of the Church.

Applicant Group Ex. No. 1, Doc. H.

21. On March 31, 1993, the Internal Revenue Service found MLM to be exempt from federal income tax under Section 501(a) of the Internal Revenue Code. The Service based on this exemption on a finding that applicant qualified as an organization described in Section 501(c)(3) of the Internal Revenue Code. Applicant Group Ex. No. 1, Doc. K.

22. On March 11, 1994 the Department issued a certificate finding that applicant was "organized and operated exclusively for religious purposes" and therefore exempt from Use and related sales taxes in the State of Illinois. Applicant Group Ex. No. 1, Doc. L.

23. A financial statement for the year ending December 31, 1993 discloses that applicant obtained revenue from the following sources:

<u>SOURCE</u>	<u>AMOUNT</u>	<u>% OF TOTAL</u>
Opening Cash Balance, 1/3/93	\$2,376.16	
3.6% ³		

Cash Receipts:

Contributions from Public Support	\$2,979.95	4.5%
Bank Charge Credit	\$ 30.00	<1%
Unspecified Notes Payable	\$60,565.22	92%
Total Revenue	\$65,951.33	

Applicant Group Ex. No. 1, Doc. M.

24. The financial statement further discloses that applicant's expenses for the same year were as follows:

<u>EXPENSE</u>	<u>AMOUNT</u>	<u>% OF TOTAL</u>
Monthly Mortgage Payment	\$ 6,390.40	10%
Mortgage Commitment Fees	\$ 1,910.00	3%
Mortgage Downpayment	\$54,165.22	82.5%
Interest Expense on Notes Payable	\$ 1,307.30	2%
Legal Fees	\$ 145.00	<1%
Bank Service Charges	\$ 124.61	<1%
Postage and Mailing	\$ 234.10	<1%
Magazine and Subscription	\$ 30.00	<1%

<u>EXPENSE</u> (Cont'd.)	<u>AMOUNT</u>	<u>% OF TOTAL</u>
Office Supplies	\$ 63.83	<1%
Maintenance Supplies and Equipment	\$ 661.01	1%
Prepaid Insurance	\$ 426.00	<1%
Conference and Meeting	\$ 95.45	<1%

³. All percentages shown in this section are approximations derived by dividing the category of income or expense (e.g. opening cash balance) by the appropriate total. Thus, for example, \$2,376.16/\$65,951.33.00 = .0360 (rounded) or approximately 3.6%.

Miscellaneous Expense	\$ 56.16	<1%
Total expenses	\$65,609.08	

Id.

CONCLUSIONS OF LAW:

On examination of the record established, this applicant has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1993 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the above-captioned parcel does not qualify for exemption under Sections 19.2 and 19.7 of the Revenue Act of 1939 (35 **ILCS** 205/1 *et seq.*) should be affirmed. In support thereof, I make the following conclusions:

A. Constitutional and Statutory Considerations

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code 35 **ILCS** 200/1-3 *et seq.* The provisions of that statute that govern disposition of the instant proceeding are found in section 205/19.2. That provision exempts the following from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit,

including all such property owned by churches and religious institutions or denominations and used in conjunction therewith as parsonages or other housing facilities provided for ministers (including bishops, district superintendents and similiar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery shall be considered for purposes of this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform related religious activities shall, as a condition of their employment or association, reside in such parsonage, convent or monastery.

35 **ILCS** 205/19.2.

Applicant also seeks to exempt the subject parcel under 35 **ILCS** 205/19.7. In relevant part, that section provides for exemption of the following:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States ... [is exempt from real estate taxation] ... when such property is actually and exclusively used for such charitable or beneficent purposes and not leased or otherwise used with a view to profit ...[.]

35 **ILCS** 205/19.7.

B. Rules of Construction, the Burden of Proof and Related Considerations

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968) (hereinafter "Nordlund"); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

An analysis of whether the subject parcel is entitled to exemption under either of the above-cited provisions begins with recognition of the fundamental principle that the word "exclusively," when used in sections 205/19.2 and 205/19.7 (as well as other tax exemption statutes) means "the primary purpose for which property is used and not any secondary or incidental purpose." Gas Research Institute v. Department of Revenue, 145 Ill. App.3d 430 (1st Dist. 1987); Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

Based on the purpose statements contained in its Articles of Incorporation and by-laws, and the Christian-oriented nature of the Statement of Faith contained in the latter, I conclude that MLM is primarily a religious organization. Accordingly, its claim for exemption must first be analyzed under Section 205/19.2.

In making this analysis, it must be remembered that "statements of the agents of an institution and the wording of its governing documents evidencing an intention to [engage in exclusively exempt activity] do not relieve such an institution of the burden of proving that ... [it] actually and factually [engages in such activity]." Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987). Therefore, "it is necessary to analyze the activities of the [applicant] in order to determine whether it is an [exempt] organization as it purports to be in its charter." *Id.*

C. The Religious Use and Parsonage Exemptions

Examination of the Section 205/19.2 exemption begins with identification of the manner in which our courts have defined the term "religious use[.]" In People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132 (1911) (hereinafter "McCullough"), the Illinois Supreme Court considered whether appellee's real estate qualified for exemption under amendments to the then-existing version of section 205/19.2. The court began its analysis by noting that "[w]hile religion, in its broadest sense, includes all forms and phases of belief in the existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of G-D as members of societies and associations." McCullough, *supra* at 136.

Cases decided after McCullough have acknowledged that religious beliefs are not necessarily limited to those which profess an orthodox belief in G-D. See, United States v. Seeger, 380 U.S. 163 (1965).

However, the following definition of "religious purpose" contained in McCullough, emphasizes a more traditional approach:

As applied to the uses of property, a religious purpose means a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction. McCullough at 136-137.

Prior to 1909, it was a requirement for the exemption of property used for religious purposes that it be owned by the organization that claimed the exemption. Since that time however, a statutory amendment eliminated that requirement in cases that do not involve parsonages. The test of exemption then became (and, with the exemption of parsonages, still remains) use and not ownership. People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922). However, "a parsonage qualifies for exemption if [a church or religious institution owns same and] it reasonably and substantially facilitates the aims of religious worship or religious instruction because the pastor's religious duties require him to live in close proximity to the church or because the parsonage has unique facilities for religious worship and instruction or is primarily used for such purposes." McKenzie v. Johnson, 98 Ill.2d 87, 99 (1983). See also, American National Bank and Trust Company v. Department of Revenue, 242 Ill.App.3d 716 (2nd Dist. 1993); Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (1994).

Here, applicant alleges that the subject property is exempt as a "property used exclusively for religious purposes" and as a parsonage. In order to sustain the former allegation, applicant must (under the preceding criteria) establish only that the subject property was

primarily used for "religious" purposes during the 1993 assessment year. However, the same criteria mandate that applicant can not prevail on the latter allegation absent appropriate evidence of exempt ownership and exempt use.

Based on the warrantee deed admitted into evidence as Applicant Group Ex. No. 1, Doc. F, I conclude that applicant satisfied the ownership requirement as of July 20, 1993. Thus, its claim to the parsonage (and other ownership-related)⁴ exemptions is limited to 45% of the 1993 assessment year under 35 ILCS 205/27a.⁵ However, for the following reasons, I conclude that applicant has failed to sustain its burden of proof as to exempt use.

The present record establishes that Rev. Ahnne resided at the subject property and conducted some religious activity therein during 1993. Nevertheless, there are also numerous evidentiary deficiencies

⁴. See, discussion of Methodist Old People's Home v. Korzen, 39 Ill.2d 149 (1968), *infra* at pp. 19-20.

⁵. The relevant portion of that provision states as follows:

The purchaser of property on January 1 shall be considered the owner [who is therefore liable for any taxes due] on that day. Provided, however, that whenever a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Act, such property shall be exempt from taxes from the date of the right of possession, payment or deposit of the award therefor. Whenever a fee simple title or lesser interest in property is purchased, granted taken or otherwise transferred from a use exempt from taxation under this Act to a use not so exempt, such property shall be subject to taxation from the date of the purchase or conveyance.

and inconsistencies that cause me to conclude the subject property's *primary* use was neither "exclusively religious" nor that of a parsonage.

Rev. Ahnne describes MLM as a "mission organization," not a church. (Tr. p. 21). Although a mission can qualify for exemption if it "reasonably and substantially facilitates" the aims of a religious order, (Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 444 (2nd Dist. 1987), (hereinafter "EAM")), the present record fails to demonstrate that MLM satisfies the applicable legal standard.

The missionaries in EAM ordinarily spent three to five years in the field, after which time they were required to take furloughs that lasted between one year and 18 months. Furloughed missionaries (of which there were approximately 200 at any given time) were required to undergo a variety of mental and physical assessments and participate in other activities designed to provide them with rest and recuperation as well as preparation for a subsequent term of service. *Id.* at 434 - 435.

The missionaries could also use part of their furloughs (six months or less) for additional theological education. They also received furlough allowances from appellant's religious order and continued to serve therein by working in various Christian churches or organizations. However, the missionaries were additionally required to attend at least (and preferably two) meeting(s) at appellant's headquarters in Carol Stream. *Id.*

Appellant housed some of these furloughed missionaries at an apartment complex which was adjacent to its headquarters. The court

held this complex exempt under the above-stated standard on grounds that it facilitated applicant's "aim of religious missionary activity because the missionaries' religious duties to prepare to return to the field require that, for part of their furloughs, they live in close proximity to the headquarters building." *Id.* at 431. Accordingly, the court went on to conclude that "[t]he apartment building, which many of the missionaries used during their time in the area of the headquarters building, was, therefore used primarily for religious purposes and so was tax exempt during [the particular assessment year in question], 1982." *Id.*

The present case is readily distinguishable from EAM in that its record is completely devoid of evidence establishing furlough requirements, meetings or nearby headquarters. More importantly, while applicant's organizational documents indicate that it is partially organized for missionary purposes, it submitted no evidence establishing the nature and extent of any such activities. Absent such evidence, MLM has failed to prove how, if at all, its actual use of the subject property "reasonably and substantially facilitates" the Christian purposes articulated in its Articles of Incorporation, by-laws and Statement of Faith.

The remaining evidence only establishes incidental exempt use. According to Rev. Ahnne's testimony, applicant was (and ostensibly still is) not a church during 1993. (Tr. pp. 23 - 24). MLM also did not conduct regular worship services on the subject property after obtaining ownership thereof. Rather, it used same to hold occasional prayer meetings and provide counseling or other services (i.e. lodging, technical assistance, etc.) on an "as needed" basis.

Applicant did hold small group sessions for children on a monthly basis during part of the assessment year in question. However, group size determined whether these groups were conducted on or off the subject premises. Such a conditional use inherently creates speculation and doubt as to whether applicant in fact held these sessions at the "mission" on a regular and continuous basis during 1993. Therefore, the rules cited *supra*, at pp. 11-12, mandate that any evidence pertaining thereto falls short of clear and convincing standard necessary to establish exempt use.

MLM also did not conduct its "Joy of Christmas" celebration or its youth camp on the subject property during 1993. Consequently, in the absence of any evidence establishing how (if at all) applicant used the subject property to plan or facilitate these activities, MLM's attempt to establish exempt use by reference thereto must fail. For this and all the above-stated reasons, I conclude that applicant's use of the subject parcel was not "exclusively religious" during 1993. Therefore, said property is subject to exemption under Section 205/19.2 only if it qualifies as a "parsonage[,]" which, for the following reasons, I conclude it does not.

As noted above, the portion of Section 205/19.2 that exempts parsonages contains both ownership and use requirements. While MLM satisfies the former, (at least with respect to 45% of the 1993 assessment year), the aforementioned failures of proof, coupled with other evidentiary deficiencies detailed below, raise doubts as to whether the building or any portion thereof satisfies the specific use requirements that apply to parsonages.

Rev. Ahnne testified that he used the building as his personal residence during 1993 and that he lived there with his wife and son. (Tr. p. 14). However, his remaining testimony as to use is rather inconsistent and conclusory. For example, he first testified that his family "primarily ... use[d] only one bedroom" as living quarters. (Tr. p. 15). However, Rev. Ahnne's use of the word "primarily" is somewhat conclusory and directly contradicts later testimony, wherein he affirmatively indicated that "I use two bedrooms ...[.]" (Tr. p. 33).

Partial exemptions may be granted where applicant proves that a specifically identifiable portion of the subject property is in actual, exempt use, (Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971), (hereinafter "IIT"). Nevertheless, neither Rev. Ahnne's testimony nor any other evidence of record specifically establishes which one of the four bedrooms were used as living quarters during 1993. Without appropriate identification, I am unable to discern what specific portion of the building was in exempt use. Consequently, applicant is not entitled to relief under the principle articulated in IIT.

Rev. Ahnne further indicated that his employment required him to live in the building. (Applicant Group Ex. No. 1, Doc. D). However, both his testimony and the remaining evidence of record fail to disclose any connection between his use of the residence and his duties at Faith Methodist Church. Specifically, the record is unclear as to whether the dining room was used for office administration activities that furthered applicant's business needs or those of Faith Methodist Church.

The rules cited *supra*, at pp. 11-12, require that all debatable questions be resolved in favor of taxation and that all inferences support same. Accordingly, I infer that the office administration activities primarily furthered applicant's business needs. Given that Rev. Ahnne's was employed by Faith Methodist Church, and not the applicant during 1993, I conclude that any nexus between his use of the kitchen and the actual duties of his employment in that year is incidental at best.

McKenzie v. Johnson, *supra*, also permits exemption where "the parsonage has unique facilities for religious worship and instruction or is primarily used for such purposes." See, *supra* at p. 13. Taken in their entirety, the above-mentioned failures of proof establish the subject property was not primarily used for exempt purposes during the relevant portion of 1993. Furthermore, to the extent that a "mission" can be considered somewhat akin to a "parsonage," the factors which serve to distinguish the present case from EHC, *supra*, also serve to defeat MLM's claim to exemption as a parsonage. See, *supra* at pp. 15-16.

With respect to the "unique facilities" language, I note that Rev. Ahnne's characterization of the living room as a "sanctuary" does not *ipso facto* establish that the living room, in fact, serves that purpose. Nor does it alleviate the need for affirmative evidence of actual, exempt use. Morton Temple Association v. Department of Revenue, *supra*; Skil Corporation v. Korzen, 32 Ill.2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App.3d 37 (5th Dist. 1994). My comments *supra*, at p. 16, establish that applicant's actual use of the "sanctuary" was

periodic at best, and therefore, legally insufficient to establish exempt use. Based on this and all the aforementioned considerations, I conclude that any "religious" uses of the subject property were incidental to the non-exempt private residential uses of Rev. Ahnne and his family. Therefore, said property does not qualify for exemption under Section 205/19.2.

D. The Charitable Exemption

Illinois courts have long refused to grant exemptions under Section 205/19.7 and its predecessor provisions absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968), (hereinafter "Korzen").

In Korzen, the Illinois Supreme Court established the now well-settled guidelines for determining "charitable" status under Section 205/19.7 and its predecessor provisions. These standards begin with the following definition of "charity," which the court used to analyze whether appellant's senior citizen's home was exempt from property taxes under the Revenue Act of 1939:

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

39 Ill.2d at 157 (citing Crerar v. Williams, 145 Ill. 625 (1893)).

The Korzen court also observed that the following "distinctive characteristics" are common to all charitable institutions:

- 1) they have no capital stock or shareholders;
- 2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
- 3) they dispense charity to all who need and apply for it;
- 4) they do not provide gain or profit in a private sense to any person connected with it; and,
- 5) they do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses.

Id.

This applicant's principal barrier to exemption under the above criteria is that its financial structure does not conform to that of an "institution of public charity." The financial statement (Applicant Group Ex. No. 1, Doc. M) discloses that 92% of applicant's revenue comes from "notes payable." Even though the source of these notes are unspecified, Rev. Ahnne's statement that "I take lots of loans" (Tr. p. 27.) establishes that such loans originate from non-exempt business transactions rather than sources specified in Korzen.

The financial statement also belies Rev. Ahnne's testimony that applicant's primary sources of revenue are public support and individual contributions. (Tr. pp. 17, 20). The financial statement establishes that only 4.5% of applicant's total revenues are attributable to such sources.

In addition, both the financial statement and the remaining record fail to disclose that this applicant expended any of its funds on charitable ventures. Our courts have held that organizations whose "charitable" contributions are minimal (or, as in this case, non-existent) do not satisfy the requirement of using their property primarily for exempt purposes. Albion Ruritan Club v. Department of Revenue, 209 Ill. App.3d 914 (5th Dist. 1991). (Denying exemption to organization that expended roughly 70% of its gross receipts on building expenses, dues and district meetings). See also, Auburn Park Lodge No. 789 v. Department of Revenue, 95 L 50343 (Circuit Court of Cook County, September 6, 1996), (Organization which disbursed 7% of its total income to charity denied exemption because primary disbursements were to building expenses, membership costs and other fraternal activities for members).

I would also note that the portion of my analysis which establishes that the subject property was not "used exclusively for religious purposes" applies with equal force to the charitable exemption. The record fails to demonstrate that applicant provided counseling or lodgings to run away children on anything but an occasional or as needed basis. (Tr. p. 23 - 24). As noted above, such periodic use is legally insufficient to satisfy the "exclusive use requirement." Furthermore, while Rev. Ahnne testified that "people come in at least four, five times a week," to receive counseling, check out dresses or make phone calls, (Tr. p. 25), I find that this testimony does not outweigh the plethora of other evidence establishing that any "charitable" or "religious" uses are incidental to those associated with the non-exempt, personal residence. For this

and all the above reasons, I conclude that the subject property is not exempt from 1993 real estate taxes under Section 205/19.7.

E. Other Considerations Effecting The Denial of Exempt Status

Applicant attempts to alter the preceding conclusions by relying on its organizational documents and exemptions from federal income and other non-related⁶ taxes. With respect to the former, I reiterate that any and all statements contained therein do not relieve applicant of its burden of establishing actual exempt use. Morton Temple Association v. Department of Revenue, *supra* at p. 12. The antecedent analysis clearly demonstrates that applicant has failed to sustained that burden. Consequently, its organizational documents are of no avail in establishing that which applicant has failed to prove.

MLM's exemptions from federal income and State use taxes, in and of themselves or in combination with other factors, do not establish the requisite exempt use. Thus, they are not dispositive of the present inquiries, which are whether the subject parcel qualifies for exemption from 1993 real estate taxes under Sections 205/205.2 and 205/19.7. People ex rel County Collector v. Hopedale Medical Foundation, 46 Ill.2d 450 (1970).

Moreover, the Department did not issue applicant's exemption from Use and related sales taxes until March 11, 1994, a date well subsequent to December 31, 1993. Considering that this latter date

⁶. I use the adjective "non-related" to connote the statutory, conceptual and functional differences between the State Use and related sales taxes not presently under review and the *ad valorem* real estate taxes that comprise the subject matter herein.

marks the end of the 1993 assessment year, any exemptions issued subsequent thereto are irrelevant to the present case.

Furthermore, applicant's exemption from federal income tax establishes only that MLM is an exempt organization for purposes of the relevant Sections of the Internal Revenue Code. However, these Sections do not preempt Sections 205/19.2 and 205/19.7. Nor do they cure any of the aforementioned evidentiary deficiencies. Consequently, applicant's exemption from federal income tax does not establish that it is an "institution of public charity" within the meaning of Section 205/19.7. Furthermore, for the same reasons, said exemption fails to establish that applicant satisfies any of the other statutory or common law exemption requirements articulated above.

In summary, applicant has not sustained its burden of proof as to all of the exemptions claimed herein. Thus, whether such claims are measured against the criteria that apply to "religious use," "parsonages" or "institutions of public charity[,]" the aforementioned evidentiary deficiencies establish that any exempt uses are incidental to those associated with Rev. Ahnne's personal residence. Therefore, the Department's decision denying said property exemption from 1993 real estate taxes should be affirmed.

WHEREFORE, for all the above-stated reasons, it is my recommendation that Cook County Parcel Index Number 02-15-101-008 not be exempt from real estate taxes for the 1993 assessment year.

Date

Alan I. Marcus,
Administrative Law Judge